

MT LEGISLATIVE HISTORY

Chapter 115 · 1929

Bill (H) 182 S _____

Original bill & hist. ☒ C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) Jan 19 ☒ C

Hearing Date(s) Feb 23 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out _____ ☐ C

_____ ☐ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

Fifty-Sixth LEGISLATIVE SESSION

COMMITTEE ON Hud. - Sen. - Senate

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
HB-176	1/23/79	1/31/79	1/31/79				1/31/79		
SB-215	1/24/79	1/30/79	2/15/79			2/15/79			
SB-217	1/24/79	1/31/79	2/18/79		2/7/79				
SB-221	1/24/79	2/14/79	2/26/79			2/18/79			
SB-223	1/24/79	1/30/79	2/7/79						
SB-225	1/24/79	1/31/79	2/19/79			2/17/79			
SB-227	1/24/79	1/30/79	2/19/79			2/18/79			
SB-231	1/24/79	2/12/79	2/19/79			2/12/79			
SB-243	1/24/79	2/13/79	2/19/79			2/18/79			
SB-250	1/24/79	2/6/79	2/19/79			2/18/79			
HB-136	1/24/79	1/31/79	3/1/79						3/1/79
HB-182	1/24/79	2/23/79	2/23/79					2/23/79	
SB-256	1/25/79	2/7/79	2/16/79			2/15/79			
HB-38	1/25/79	1/26/79	1/26/79				1/26/79		
HB-95	1/26/79	1/26/79	1/26/79				1/26/79		
HB-96	1/26/79	1/26/79	1/26/79				1/26/79		

HOUSE BILL NO. 182

INTRODUCED BY MARKS

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

January 16, 1979	Introduced and referred to Committee on Judiciary.
January 19, 1979	Committee recommend bill do pass and be placed on Consent Calendar. Report adopted.
January 20, 1979	Printed and placed on members' desks.
January 23, 1979	Third reading Consent Calendar passed. Transmitted to second house.

IN THE SENATE

January 24, 1979	Introduced and referred to Committee on Judiciary.
February 27, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 1, 1979	Second reading, concurred in.
March 3, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 5, 1979	Returned from second house with amendments.
March 6, 1979	Second reading, amendments adopted.
March 7, 1979	Third reading, amendments adopted. Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 182

INTRODUCED BY

Mark

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO PROPERTY; AND REPEALING SECTIONS 67-1001 THROUGH 67-1008 AND 34-106, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-2-202, MCA, is amended to read:

"70-2-202. General procedural provisions applicable. The provisions of ~~{93-3001 to 93-3020, inclusive}~~ Title 25, Chapter 3, parts 2 and 3, and Rules 4, 12(a), and 41(e), M.R.Civ.P., are hereby made applicable to the action for which provision is made in 70-2-201."

Section 2. Section 70-5-103, MCA, is amended to read:

"70-5-103. Duty to inform owner when known. ~~{1} If the finder of a thing knows or suspects who is the owner, he must, with reasonable diligence, give him notice of the findings, and if he fails to do so, he is liable in damages to the owner and has no claim to any reward offered by him for the recovery of the thing or to any compensation for his trouble or expenses.~~

~~{2} If any person find finds any money, goods, things in action, or other personal property or save saves any~~

domestic animal from drowning or from starvation when such the property is of the a value of \$10 or more and he knows or suspects who the owner is, he must use reasonable diligence to inform the owner thereof, if known, and make restitution without compensation, further than a reasonable charge for saving and taking care thereof. ~~If he fails to do so, he is liable in damages to the owner and has no claim to any reward offered by the owner for the recovery of the thing or to any compensation for his trouble or expenses.~~

Section 3. Section 70-6-504, MCA, is amended to read:

"70-6-504. How exempted from liability -- safe. {1} If an innkeeper keeps a fireproof safe and gives notice to a guest, either personally or by putting up placing a printed notice in a prominent place in the room occupied by the guest, that he keeps such a safe and will not be liable for money, jewelry, documents, or other articles of unusual value and small compass unless placed therein, he is not liable, except so far as his own acts contribute thereto, for any loss of or injury to such articles, if not deposited with him and not required by the guest for present use.

~~{2} Whenever the proprietor or proprietors of any hotel or inn shall provide a safe or other secure place of deposit therein for the safekeeping of any money, jewelry, ornaments, or other articles of value belonging to any guest or guests of such hotel or inn and shall cause to be posted~~

1 ~~and maintained printed notices thereof in the office or~~
 2 ~~public room and within every guest's room of such inn or~~
 3 ~~hotel, the proprietor or proprietors thereof shall not be~~
 4 ~~liable to any such guest or guests who shall neglect to~~
 5 ~~deliver their money, jewelry, ornaments, or other articles of~~
 6 ~~value to the proprietor or other person in charge of such~~
 7 ~~safe or place of deposit for deposit and safekeeping therein~~
 8 ~~for any loss of such money or other articles which may be~~
 9 ~~sustained by such guest by theft or otherwise."~~

10 Section 4. Section 70-9-302, MCA, is amended to read:
 11 "70-9-302. Notice of property presumed abandoned --
 12 publication -- mail. (1) Within 120 days from the filing of
 13 the report required by 70-9-301, the department of revenue
 14 shall ~~cease~~ publish notice to be published at least once
 15 each week for 2 successive weeks in an English language
 16 newspaper of general circulation in the county in this state
 17 in which is located the last known address of any person to
 18 be named in the notice. If no address is listed or if the
 19 address is outside this state, the notice shall be published
 20 in the county in which the holder of the abandoned property
 21 has his principal place of business within this state.

22 (2) The published notice shall be entitled "Notice of
 23 Names of Persons Appearing to Be Owners of Abandoned
 24 Property" and shall contain:

25 (a) the names in alphabetical order and last known

1 addresses, if any, or person of persons listed in the report
 2 and entitled to notice within the county as hereinbefore
 3 specified;

4 (b) a statement that information concerning the amount
 5 or description of the property and the name and address of
 6 the holder may be obtained by any persons possessing an
 7 interest in the property by addressing an inquiry to the
 8 department;

9 (c) a statement that if proof of claim is not
 10 presented by the owner to the holder and if the owner's
 11 right to receive the property is not established to the
 12 holder's satisfaction within 65 days from the date of the
 13 second published notice, the abandoned property will be
 14 placed not later than 85 days after such publication date in
 15 the custody of the department to whom all further claims
 16 must thereafter be directed.

17 (3) The department is not required to publish in such
 18 notice any item of less than \$25 unless the department ~~deems~~
 19 considers such publication to be in the public interest.

20 (4) Within 120 days from the receipt of the report
 21 required by 70-9-301, the department shall mail a notice to
 22 each person having an address listed therein who appears to
 23 be entitled to property of the value of \$25 or more presumed
 24 abandoned under parts 1 through 3.

25 (5) The mailed notice shall contain:

(a) a statement that, according to a report filed with the department, property is being held to which the addressee appears entitled;

(b) the name and address of the person holding the property and any necessary information regarding changes of name and address of the holder;

(c) a statement that if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the department to whom all further claims must be directed.

(6) This section is not applicable to sums payable on travelers' checks or money orders presumed abandoned under 70-9-201."

Section 5. Section 70-16-104, MCA, is amended to read:

"70-16-104. Rights of tenant for years or at will. (1) A tenant for years or at will, unless he is a wrongdoer by holding over, may occupy the buildings, take the annual products of the soil, and work mines and quarries open at the commencement of his tenancy; and a tenant at will or for an indefinite term may cultivate and harvest the crops growing at the end of his tenancy.

(2) A tenant for years or at will has no other rights to the property than such as are those given to him by the agreement or instrument by which his tenancy is acquired or

by subsection (1).

~~(3) Subsection (2) does not apply to arrangements governed by chapter 24 of this title."~~

Section 6. Section 70-19-413, MCA, is amended to read:

"70-19-413. Certain disabilities to suspend running of statutory period. (1) ~~If Subsection (2) applies if~~ a person entitled to commence an action for the recovery of real property or for the recovery of the possession thereof or for dower or to make any entry or defense founded on the title to real property or to rents or services out of the same is, at the same time such title first descends or accrues, either:

(a) ~~within~~ under the age of majority;

(b) ~~insane~~ seriously mentally ill; or

(c) imprisoned on a criminal charge or in execution upon conviction of a criminal offense for a term of less than for life.

(2) The time during which disability continues is not deemed ~~considered~~ any portion of the time in this chapter limited for the commencement of such action or the making of such entry or defense, but such action may be commenced or entry or defense made within the period of 5 years after such disability ~~shall cease~~ ceases or after the death of the person entitled who ~~shall die~~ dies under such disability, but such action ~~shall~~ may not be commenced or entry or

1 defense made after that period."

2 Section 7. Section 70-20-101, MCA, is amended to read:

3 "70-20-101. Transfer to be in writing -- statute of
4 frauds. ~~{1} An estate in real property, other than an estate~~
5 ~~at will or for a term not exceeding 1 year, can be~~
6 ~~transferred only by operation of law or by an instrument in~~
7 ~~writing subscribed by the party disposing of the same or by~~
8 ~~his agent thereunto authorized by writing.~~

9 {2} No estate or interest in real property, other than
10 for ~~fees~~ an estate at will or for a term not exceeding 1
11 year, or any trust over or power concerning it or in any
12 manner relating thereto can be created, granted, assigned,
13 surrendered, or declared otherwise than by operation of law
14 or a conveyance or other instrument in writing, subscribed
15 by the party creating, granting, assigning, surrendering, or
16 declaring ~~the same~~ it or by his lawful agent thereunto
17 authorized by writing."

18 Section 8. Section 70-20-107, MCA, is amended to read:

19 "70-20-107. Power of attorney of married ~~women~~ person
20 -- how acknowledged. A power of attorney of a married ~~women~~
21 person, authorizing the execution of an instrument
22 transferring an estate in ~~her~~ his separate real property,
23 has no validity for that purpose unless acknowledged by ~~her~~
24 him in the manner provided in 1-5-206 and 1-5-207."

25 Section 9. Section 70-20-310, MCA, is amended to read:

1 "70-20-310. Conveyance in joint tenancy -- right of
2 survivorship. In all conveyances of real property made in
3 joint tenancy ~~or to tenants in estates by entirety~~ where the
4 right of survivorship is contained in the grant of such
5 conveyance, the right of survivorship ~~is hereby expressly~~
6 ~~declared to exist~~ exists by virtue of such grant."

7 Section 10. Section 70-20-405, MCA, is amended to
8 read:

9 "70-20-405. Other provisions on unlawful transfers --
10 where found. Other provisions concerning unlawful transfers
11 are contained in ~~{29-207 to 29-210 and 10-201 to 10-205}~~
12 Title 31, chapter 2, part 3, concerning the special
13 relations of debtor and creditor."

14 Section 11. Section 70-23-204, MCA, is amended to
15 read:

16 "70-23-204. Refund of ~~purchasers'~~ purchaser's funds
17 for change in building plans -- final report. (1)
18 ~~Purchasers'~~ The funds of any purchaser obtained prior to
19 issuance of final reports shall be refunded if there is any
20 change in the condominium building plans subsequent to
21 execution of the contract requiring approval of a city or
22 county officer having jurisdiction over issuance of permits
23 for construction of buildings unless ~~the~~ purchaser's written
24 acceptance of the specific change is obtained.

25 (2) Rights under contracts of sale of condominium

1 units under a preliminary report are not enforceable against
 2 purchasers until purchasers have had a full opportunity to
 3 read the department's final report on the project and to
 4 obtain a refund of any moneys paid as well as a release from
 5 all obligations if the final report differs in any material
 6 respect from the preliminary report.

7 (3) If the final report is not issued within 1 year
 8 from the date of issuance of the preliminary report,
 9 purchasers are entitled to refund of all moneys paid by the
 10 purchasers thereunder without further obligation."

11 Section 12. Section 70-23-611, MCA, is amended to
 12 read:

13 "70-23-611. Joint liability of grantor and grantee for
 14 unpaid common expenses. In a voluntary conveyance of a unit,
 15 the grantee ~~shall be~~ is jointly and severally liable with
 16 the grantor for all unpaid charges against the latter for
 17 his proportionate share of the common expenses up to the
 18 time of the grant or conveyance, without prejudice to the
 19 grantee's right to recover from the grantor the amounts paid
 20 by the grantee therefor. However, upon request of a
 21 prospective purchaser, the manager shall make and deliver a
 22 statement of the unpaid charges against the prospective
 23 grantor, and the grantee in that case ~~shall is~~ is not be liable
 24 for nor ~~shall is~~ the unit when conveyed be subject to a lien
 25 filed thereafter for any unpaid charges against the grantor

1 In excess of the amount therein set forth."

2 Section 13. Section 70-25-103, MCA, is amended to
 3 read:

4 "70-25-103. Waivers and contrary provisions invalid.
 5 Any provision of a leasehold agreement, either oral or
 6 written, that is contrary to this ~~section shall be~~ chapter
 7 is invalid. Any attempted waiver of this section ~~chapter~~ by
 8 the tenant ~~shall be~~ is invalid."

9 Section 14. Section 70-25-201, MCA, is amended to
 10 read:

11 "70-25-201. Security deposit -- deductions authorized
 12 ~~therefrom.~~ (1) Any landlord renting property covered by this
 13 ~~section~~ chapter may deduct from the security deposit a sum
 14 equal to the damage alleged to have been caused by the
 15 tenant, together with a sum equal to the unpaid rent owing
 16 to the landlord at the time of such deduction and a sum for
 17 actual cleaning expenses.

18 (2) No cleaning charges may be imposed for normal
 19 maintenance performed on a cyclical basis by the landlord as
 20 noted by the landlord at the time the tenant occupies the
 21 space unless the landlord is forced to perform this
 22 maintenance because of negligence of the tenant.
 23 Additionally, no cleaning charges ~~can~~ may be deducted until
 24 notice has been given to the tenant. The notice shall
 25 include the cleaning not accomplished by the tenant and the

HB 182

1 additional and type or types of cleaning which need to be
2 done by the tenant to bring the premises back to its
3 condition at the time of its renting. After the delivery of
4 the notice, the tenant ~~shall have~~ has 48 hours to complete
5 the required cleaning.

6 (3) No person may deduct or withhold from the security
7 deposit any amount for purposes other than those set forth
8 in this subsection ~~section~~."

9 Section 15. Section 70-26-202, MCA, is amended to
10 read:

11 "70-26-202. Rent -- when payable. When there is no
12 usage or contract to the contrary, rents for real property
13 under an arrangement not governed by chapter 24 of this
14 title are payable at the termination of the holding when if
15 it does not exceed 1 year. If the holding is by the day,
16 week, month, quarter, or year, rent is payable at the
17 termination of the respective periods, as it successively
18 becomes due."

19 Section 16. Section 70-26-203, MCA, is amended to
20 read:

21 "70-26-203. Failure of lessor to repair -- lessee's
22 remedies. (1) If, within a reasonable time after notice to
23 the lessor of dilapidations which he ought to repair, he
24 neglects to do so, ~~the lessee may repair the same himself~~
25 where and if the costs cost of such repairs do does not

1 require an expenditure greater than 1 month's rent of the
2 premises, ~~the lessee may perform such repairs himself~~ and
3 deduct the expenses of such repairs from the rent, or the
4 lessee may vacate the premises, in which case he ~~shall be~~ is
5 discharged from further payment of rent or performance of
6 other conditions.

7 ~~(2) Subsection (1) does not apply to real property~~
8 ~~leased under an arrangement governed by chapter 24 of this~~
9 ~~title."~~

10 Section 17. Section 70-26-204, MCA, is amended to
11 read:

12 "70-26-204. Renewal of lease by lessee's continued
13 possession. If a lessee of real property leased under an
14 arrangement not governed by chapter 24 of this title remains
15 in possession thereof after the expiration of the hiring and
16 the lessor accepts a rent from him, the parties are presumed
17 to have renewed the hiring on the same terms and for the
18 same time, not exceeding 1 month when the rent is payable
19 monthly, or in any case 1 year."

20 Section 18. Section 70-26-205, MCA, is amended to
21 read:

22 "70-26-205. Notice required to terminate lease. (1) A
23 hiring of real property for a term not specified by the
24 parties is ~~deemed to be~~ renewed as stated in 70-26-204 at
25 the end of the term implied by law unless one of the parties

gives notice to the other of his intention to terminate the same hiring at least as long before the expiration thereof as the term of the hiring itself, not exceeding 1 month.

(2) Subsection (1) does not apply to real property leased under an arrangement governed by chapter 24 of this title.

Section 19. Section 70-26-206, MCA, is amended to read:

"70-26-206. Rights of tenant for years or at will. (1) A tenant for years or at will, unless he is a wrongdoer by holding over, may occupy the buildings, take the annual products of the soil, and work mines and quarries open at the commencement of his tenancy; and a tenant at will or for an indefinite term may cultivate and harvest the crops growing at the end of his tenancy.

(2) A tenant for years or at will has no other rights to the property than such as are those given to him by the agreement or instrument by which his tenancy is acquired or by subsection (1).

(3) Subsection (2) does not apply to arrangements governed by chapter 24 of this title.

Section 20. Section 70-27-109, MCA, is amended to read:

"70-27-109. General rules of practice applicable. Except as otherwise provided in this chapter, the provisions

of ~~[93-2381 to 93-8717]~~ Title 25 are applicable to and constitute the rules of practice mentioned in this chapter."

Section 21. Section 70-27-115, MCA, is amended to read:

"70-27-115. Defendant's appearance and answer. On or before the day fixed for his appearance, the defendant may appear and answer or ~~demonstrate~~ move to dismiss the complaint for failure to state a claim."

Section 22. Section 70-28-102, MCA, is amended to read:

"70-28-102. General procedural provisions applicable. The provisions of ~~[93-3881 to 93-3828, inclusive Title 25, chapter 3, parts 2 and 3,]~~ and Rules 4, 12(a), and 41(e), M.R.Civ.P., so far as ~~the same~~ they are not in conflict with this part, are hereby made applicable to the action herein provided for."

Section 23. Section 70-29-113, MCA, is amended to read:

"70-29-113. Death or incompetency of parties — proceedings not delayed. (1) If during the pendency of the action any of the parties ~~dies~~ or ~~becomes insane~~ becomes seriously mentally ill or otherwise incompetent, the proceedings ~~shall~~ may not for that cause be delayed or suspended, but the attorney who has appeared for such the party may continue to represent such interests ~~and in cases~~

1 If any such party has not appeared by an attorney, the court
2 shall appoint an attorney to represent the interest which
3 was held by such ~~the~~ party until his heirs or legal
4 representatives or successors in interest ~~shall~~ have
5 appeared in the action.

6 (2) An attorney so appointed shall be allowed by the
7 court a reasonable compensation for his services, which may
8 be taxed as costs against the share or interest represented
9 by such ~~the~~ attorney and may be adjudged a lien thereon, in
10 the discretion of the court."

11 Section 24. Section 70-29-210, MCA, is amended to
12 read:

13 "70-29-210. Consent of guardian to share of ward. The
14 general guardian of an infant and the guardian entitled to
15 the custody and management of the estate of ~~an-insane~~ a
16 ~~seriously mentally ill~~ person, or other person adjudged
17 incapable of conducting his own affairs, who is interested
18 in real estate held in joint tenancy or in common or in any
19 other manner so as to authorize his being made a party to an
20 action, may agree upon the share to be set off to such
21 infant or other person entitled and may execute a release,
22 in his behalf, to the owners of the shares of the parts to
23 which they may be respectively entitled, upon an order of
24 the court."

25 Section 25. Section 70-29-328, MCA, is amended to

1 read:

2 "70-29-328. Incompetent's share of proceeds — payment
3 to guardian. The guardian who may be entitled to the custody
4 and management of the estate of ~~an--insane~~ a ~~seriously~~
5 ~~mentally ill~~ person or other person adjudged incapable of
6 conducting his own affairs, whose interest in real property
7 has been sold, may receive in behalf of such person his
8 share of the proceeds of such real property from the
9 referees on executing with sufficient sureties an
10 undertaking, approved by a judge of the court, that he will
11 faithfully discharge the trust reposed in him and will
12 render a true and just account to the person entitled or to
13 his legal representative."

14 Section 26. Section 70-30-201, MCA, is amended to
15 read:

16 "70-30-201. Applicable rules of practice. Except as
17 otherwise provided in this chapter, the provisions of
18 ~~[93-2381--to--93-6717]~~ Title 25 are applicable to and
19 constitute the rules of practice in the proceedings
20 mentioned in this chapter."

21 Section 27. Section 70-30-303, MCA, is amended to
22 read:

23 "70-30-303. Final report and award of commissioners —
24 procedure on failure to agree. (1) The report of
25 commissioners shall be made on such forms as are provided

1 for their use by authority of the court. ~~Such~~ the report
 2 must be filed within 10 days after the completion of the
 3 hearing or within such additional time as ~~may be~~ allowed by
 4 the judge upon a clear showing of necessity therefor and
 5 must be filed with the clerk of court ~~and the~~ the clerk
 6 ~~must forthwith~~ shall notify the parties interested that such
 7 ~~the~~ report has been filed, with ~~which~~ notice, together with
 8 a true copy of ~~said the~~ report, must be served upon all the
 9 parties interested in the same manner as a summons.

10 (2) A concurrence of two commissioners ~~shall be~~ is
 11 necessary to the making of a final report or award as to any
 12 parcel of property or interest therein. ~~in the event that if~~
 13 no two of the commissioners are able to agree as to the
 14 amount of any award, they shall report ~~such the~~ fact to the
 15 judge or court within the time ~~hereinbefore~~ herein specified
 16 and the court ~~must~~ shall forthwith impanel and appoint new
 17 commissioners as ~~hereinbefore~~ herein provided, which
 18 commissioners shall proceed as provided before herein to
 19 determine any award upon which the previous commissioners
 20 failed to agree.

21 (3) The report of ~~said the~~ commissioners shall also
 22 state the number of days or portions thereof consumed by the
 23 commissioners in performance of their duties as prescribed
 24 herein."

25 Section 28. Repealer. Sections 67-1001 through 67-1008

1 (as enacted by sections 1 through 8, chapter 58, Laws 1923)
 2 and 34-106, R.C.M. 1947, are repealed.

-End-

HB 182

CONSIDERATION OF HOUSE BILL 182:

This is an act to generally revise and clarify the laws relating to property. Bob Pyfer, staff attorney for the Legislative Council, gave an explanation of this bill.

Senator Towe moved that the bill be amended on page 7, line 9, following the word "interest" by inserting "or interest". The motion carried unanimously.

Senator Towe moved that the bill be amended on page 12, line 24 after "is" by inserting "presumed to be". The motion carried unanimously.

Senator Towe moved that the bill be concurred in as amended. The motion carried unanimously. Senator Turnage moved that this bill be placed on the consent calendar. The motion carried.

DISPOSITION OF HOUSE BILL 184:

A motion was made that this bill be concurred in. The motion carried unanimously.

CONSIDERATION OF HOUSE BILL 194:

Joan Mayer from the Legislative Council went over this bill section by section. This is an act to generally revise the laws in Title 1, MCA, composed of general laws and definitions, etc.

Senator Towe moved that the bill be amended on page 2, lines 9 through 25, by striking section 3 in its entirety. The motion carried unanimously.

Senator Turnage moved that the bill be amended on page 2, line 25, by striking "proof or acknowledgment" and inserting "acknowledgments" and on page 3, line 1, by striking "or" and inserting "of". The motion carried unanimously.

Senator Towe moved that on page 9, line 19, following the word "swearing" the bill be amended by inserting "or affirming" and on line 21, after "swearing" inserting "or affirming". The motion carried unanimously.

Senator Turnage moved that the bill be concurred in as amended. The motion carried unanimously.

There being no further business, the meeting was adjourned.

Everett R. Lensink
SENATOR EVERETT R. LENSINK, Chairman
Senate Judiciary Committee

Date Feb 28, 1979

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)	✓		
Gill, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)	✓		

Each Day Attach to Minutes.

[Handwritten signature]

HB 182

1. Page 7, line 9.

Following: "~~interest~~"

Insert: "or interest"

2. Page 12, line 24.

Following: "~~be~~"

Insert: "presumed to be"

STANDING COMMITTEE REPORT

February 23 19 79

MR. President

We, your committee on Judiciary

having had under consideration House Bill No. 152

Respectfully report as follows: That House Bill No. 152,

third reading bill, be amended as follows:

1. Page 7, line 9.

Following: "interest"

Insert: "or interest"

2. Page 12, line 24.

Following: "be"

Insert: "presumed to be"

And, as so amended,
BE CONCURRED IN

RP
DO-PASS

Judiciary COMMITTEE

46th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 170	reference to a title, chapter part, section etc of the MCA is a reference	1/15	Kvaalen	Thursday 18th	do pass amended	1/18
HB 172	open blanket primaries	1/15	Keyser	Thursday 18th	do pass amended	1/19
SB 4	relating to mortgages, pledges, liens, etc.	1/15	Galt	Thursday 18th	concurrent-amend consent cal.	1/24
SB 25	relating to alcoholic beverages	1/15	Galt	Thursday 18th	concurrent in	1/19
HB 182	relating to property	1/16	Marks	Friday 19th	do pass	1/19
HB 183	relating to public contracts	1/16	Marks	Friday 19th	do pass-amended	1/22

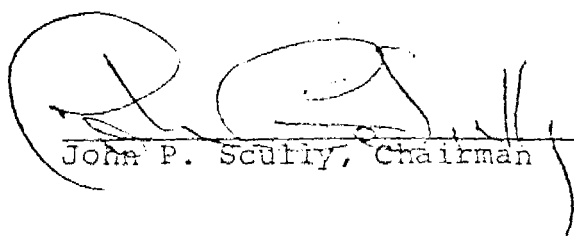
HOUSE BILL NO. 182:

Representative Marks introduced Bob Pyfer of the Legislative Counsel who will go through the bill and explain the changes. This bill will revise and clarify the laws relating to property.

There was no discussion and the hearing closed on House Bill No. 182.

There was no other business to come before the committee in the way of bills to be heard on this day, so the meeting adjourned and Mr. Scully said that after a brief recess they would reconvene to take action on bills pending.

The meeting adjourned at 9:40 a.m.



John P. Scully, Chairman

Mary Ellen Connelly, Secretary

The question was called on the motion "do pass as amended". The motion carried with a roll call vote of 11 to 6 and 1 abstaining. Yes: Anderson, Conroy, Curtiss, Iverson, Keedy, Keyser, Lory, Roth, Selfert, Uhde, Scully. No: Dally, Day, Eudaily, Kemmis, Pavlovich, Rosenthal and abstaining was Representative Teague. Representative Holmes was excused, because of illness.

SENATE BILL NO. 4:
Representative Lory moved "do pass". Representative Selfert moved an amendment to page 4 lines 5 through 9, to change the count of the animals as follows "4 horses, 8 cows, 12 hogs, 100 fowl, 1 lamb, 2 turtle doves and a partridge in a pear tree." The motion to amend carried with the following Representatives voting "no", Curtiss, Lory, Rosenthal and Roth.

Representative Eudaily moved "do pass as amended". Discussion centered around mortgagor and mortgagee as amended by the Senate. The general feeling was that it could be interpreted two ways and it would be necessary for the committee to determine what was meant by the change. Larry Weinberg will check the section. He said it might pertain to the Bannock amendment, which was so old that it was not even dated.

Representative Day moved to amend page 5, line 16, strike "livery" After an explanation from Mr. Weinberg he withdrew the motion. It was decided to pass Senate Bill No. 4 for the day, in order to have more information about the section in question.

SENATE BILL NO. 25:
Representative Selfert moved "do pass". The motion carried with the vote unanimous. Representative Kemmis moved to place the bill on the consent calendar. The motion carried with the vote unanimous.

HOUSE BILL NO. 182:
Discussion about line 14, did the committee wish to add additional language. It was decided not. Representative Keyser moved "do pass". The motion carried with the vote unanimous. Representative Kemmis moved to place the bill on the consent calendar. The motion carried with the vote unanimous.

HOUSE BILL NO. 183:
Will be held until Monday. The meeting adjourned at 10:55 a.m.


John P. Scully, Chairman

HOUSE BILL NO. 182

INTRODUCED BY MARKS

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO PROPERTY; AND REPEALING SECTIONS 67-1001 THROUGH 67-1008 AND 34-106, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-2-202, MCA, is amended to read:

"70-2-202. General procedural provisions applicable.

The provisions of ~~[93-3001 to 93-3020 inclusive Title 25, Chapter 3, parts 2 and 3,]~~ and Rules 4, 12(a), and 41(e), M.R.Civ.P., are hereby made applicable to the action for which provision is made in 70-2-201."

Section 2. Section 70-5-103, MCA, is amended to read:

"70-5-103. Duty to inform owner when known. ~~{1} If the finder of a thing knows or suspects who is the owner, he must with reasonable diligence give him notice of the finding and if he fails to do so, he is liable in damages to the owner and has no claim to any reward offered by him for the recovery of the thing or to any compensation for his trouble or expenses.~~

{2} If any person find finds any money, goods, things in action, or other personal property or save saves any

domestic animal from drowning or from starvation when such the property is of the a value of \$10 or more and he knows or suspects who the owner is, he must use reasonable diligence to inform the owner thereof ~~if known~~, and make restitution without compensation, further than a reasonable charge for saving and taking care thereof. If he fails to do so, he is liable in damages to the owner and has no claim to any reward offered by the owner for the recovery of the thing or to any compensation for his trouble or expenses."

Section 3. Section 70-6-504, MCA, is amended to read:

"70-6-504. How exempted from liability -- safe. {1} If an innkeeper keeps a fireproof safe and gives notice to a guest, either personally or by putting-up placing a printed notice in a prominent place in the room occupied by the guest, that he keeps such a safe and will not be liable for money, jewelry, documents, or other articles of ~~unusual~~ value and small compass unless placed therein, he is not liable, except so far as his own acts contribute thereto, for any loss of or injury to such articles, if not deposited with him and not required by the guest for present use.

{2} ~~Whenever the proprietor or proprietors of any hotel or inn shall provide a safe or other secure place of deposit therein for the safekeeping of any money, jewelry, ornaments, or other articles of value belonging to any guest or guests of such hotel or inn and shall cause to be posted~~

~~and--maintained--printed--notices--thereof--in--the--office--or
public--room--and--within--every--guest's--room--of--such--inn--or
hotel,--the--proprietor--or--proprietors--thereof--shall--not--be
liable--to--any--such--guest--or--guests--who--shall--neglect--to
deliver--their--money,--jewelry--ornaments--or--other--articles--of
value--to--the--proprietor--or--other--person--in--charge--of--such
safe--or--place--of--deposit--for--deposit--and--safekeeping--therein
for--any--loss--of--such--money--or--other--articles--which--may--be
sustained--by--such--guest--by--theft--or--otherwise."~~

Section 4. Section 70-9-302, MCA, is amended to read:

"70-9-302. Notice of property presumed abandoned --
publication -- mail. (1) Within 120 days from the filing of
the report required by 70-9-301, the department of revenue
shall ~~cause publish~~ notice to be published at least once
each week for 2 successive weeks in an English language
newspaper of general circulation in the county in this state
in which is located the last known address of any person to
be named in the notice. If no address is listed or if the
address is outside this state, the notice shall be published
in the county in which the holder of the abandoned property
has his principal place of business within this state.

(2) The published notice shall be entitled "Notice of
Names of Persons Appearing to Be Owners of Abandoned
Property" and shall contain:

(a) the names in alphabetical order and last known

addresses, if any, or person or persons listed in the report
and entitled to notice within the county as hereinbefore
specified;

(b) a statement that information concerning the amount
or description of the property and the name and address of
the holder may be obtained by any persons possessing an
interest in the property by addressing an inquiry to the
department;

(c) a statement that if proof of claim is not
presented by the owner to the holder and if the owner's
right to receive the property is not established to the
holder's satisfaction within 65 days from the date of the
second published notice, the abandoned property will be
placed not later than 85 days after such publication date in
the custody of the department to whom all further claims
must thereafter be directed.

(3) The department is not required to publish in such
notice any item of less than \$25 unless the department deems
~~considers~~ such publication to be in the public interest.

(4) Within 120 days from the receipt of the report
required by 70-9-301, the department shall mail a notice to
each person having an address listed therein who appears to
be entitled to property of the value of \$25 or more presumed
abandoned under parts 1 through 3.

(5) The mailed notice shall contain:

(a) a statement that, according to a report filed with the department, property is being held to which the addressee appears entitled;

(b) the name and address of the person holding the property and any necessary information regarding changes of name and address of the holder;

(c) a statement that if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the department to whom all further claims must be directed.

(6) This section is not applicable to sums payable on travelers' checks or money orders presumed abandoned under 70-9-201."

Section 5. Section 70-16-104, MCA, is amended to read:

"70-16-104. Rights of tenant for years or at will. (1) A tenant for years or at will, unless he is a wrongdoer by holding over, may occupy the buildings, take the annual products of the soil, and work mines and quarries open at the commencement of his tenancy; and a tenant at will or for an indefinite term may cultivate and harvest the crops growing at the end of his tenancy.

(2) A tenant for years or at will has no other rights to the property than such-as-are ~~those~~ given to him by the agreement or instrument by which his tenancy is acquired or

by subsection (1).

~~(3) Subsection (2) does not apply to arrangements governed by chapter 24 of this title."~~

Section 6. Section 70-19-413, MCA, is amended to read:

"70-19-413. Certain disabilities to suspend running of statutory period. (1) ~~If Subsection (2) applies if~~ a person entitled to commence an action for the recovery of real property or for the recovery of the possession thereof or for dower or to make any entry or defense founded on the title to real property or to rents or services out of the same is, at the same time such title first descends or accrues, either:

(a) ~~within~~ under the age of majority;

(b) ~~insane seriously mentally ill~~; or

(c) imprisoned on a criminal charge or in execution upon conviction of a criminal offense for a term of less than for life.

(2) The time during which disability continues is not deemed ~~considered~~ any portion of the time in this chapter limited for the commencement of such action or the making of such entry or defense, but such action may be commenced or entry or defense made within the period of 5 years after such disability ~~shall cease~~ ~~ceases~~ or after the death of the person entitled who ~~shall die~~ ~~dies~~ under such disability, but such action ~~shall~~ ~~may~~ not be commenced or entry or

1 defense made after that period."

2 Section 7. Section 70-20-101, MCA, is amended to read:

3 "70-20-101. Transfer to be in writing -- statute of
4 frauds. ~~{1} An estate in real property other than an estate~~
5 ~~at will or for a term not exceeding 1 year, can be~~
6 ~~transferred only by operation of law or by an instrument in~~
7 ~~writing subscribed by the party disposing of the same or by~~
8 ~~his agent thereunto authorized by writing.~~

9 {2} No estate or interest OR INTEREST in real
10 property, other than for ~~leases~~ an estate at will or for a
11 term not exceeding 1 year, or any trust over or power
12 concerning it or in any manner relating thereto can be
13 created, granted, assigned, surrendered, or declared
14 otherwise than by operation of law or a conveyance or other
15 instrument in writing, subscribed by the party creating,
16 granting, assigning, surrendering, or declaring the same ~~it~~
17 or by his lawful agent thereunto authorized by writing."

18 Section 8. Section 70-20-107, MCA, is amended to read:

19 "70-20-107. Power of attorney of married women PERSON
20 -- now acknowledged. A power of attorney of a married woman
21 PERSON, authorizing the execution of an instrument
22 transferring an estate in her his separate real property,
23 has no validity for that purpose unless acknowledged by her
24 him in the manner provided in 1-5-206 and 1-5-207."

25 Section 9. Section 70-20-310, MCA, is amended to read:

1 "70-20-310. Conveyance in joint tenancy -- right of
2 survivorship. In all conveyances of real property made in
3 joint tenancy ~~or to tenants in estates by entirety~~ where the
4 right of survivorship is contained in the grant of such
5 conveyance, the right of survivorship ~~is hereby expressly~~
6 ~~declared to exist~~ exists by virtue of such grant."

7 Section 10. Section 70-20-405, MCA, is amended to
8 read:

9 "70-20-405. Other provisions on unlawful transfers --
10 where found. Other provisions concerning unlawful transfers
11 are contained in ~~[29-207 to 29-210 and 18-201 to 18-205]~~
12 Title 31, chapter 2, part 3, concerning the special
13 relations of debtor and creditor."

14 Section 11. Section 70-23-204, MCA, is amended to
15 read:

16 "70-23-204. Refund of purchasers' ~~purchaser's~~ funds
17 for change in building plans -- final report. (1)
18 ~~Purchasers' The funds of any purchaser~~ obtained prior to
19 issuance of final reports shall be refunded if there is any
20 change in the condominium building plans subsequent to
21 execution of the contract requiring approval of a city or
22 county officer having jurisdiction over issuance of permits
23 for construction of buildings unless ~~the~~ purchaser's written
24 acceptance of the specific change is obtained.

25 (2) Rights under contracts of sale of condominium

units under a preliminary report are not enforceable against purchasers until purchasers have had a full opportunity to read the department's final report on the project and to obtain a refund of any moneys paid as well as a release from all obligations if the final report differs in any material respect from the preliminary report.

(3) If the final report is not issued within 1 year from the date of issuance of the preliminary report, purchasers are entitled to refund of all moneys paid by the purchasers thereunder without further obligation."

Section 12. Section 70-23-611, MCA, is amended to read:

"70-23-611. Joint liability of grantor and grantee for unpaid common expenses. In a voluntary conveyance of a unit, the grantee ~~shall--be~~ is jointly and severally liable with the grantor for all unpaid charges against the latter for his proportionate share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, upon request of a prospective purchaser, the manager shall make and deliver a statement of the unpaid charges against the prospective grantor, and the grantee in that case ~~shall~~ is not be liable for nor ~~shall~~ is the unit when conveyed be subject to a lien filed thereafter for any unpaid charges against the grantor

in excess of the amount therein set forth."

Section 13. Section 70-25-103, MCA, is amended to read:

"70-25-103. Waivers and contrary provisions invalid. Any provision of a leasehold agreement, either oral or written, that is contrary to this ~~section--shall--be~~ chapter ~~is~~ invalid. Any attempted waiver of this ~~section~~ chapter by the tenant ~~shall--be~~ is invalid."

Section 14. Section 70-25-201, MCA, is amended to read:

"70-25-201. Security deposit -- deductions authorized therefrom. (1) Any landlord renting property covered by this ~~section~~ chapter may deduct from the security deposit a sum equal to the damage alleged to have been caused by the tenant, together with a sum equal to the unpaid rent owing to the landlord at the time of such deduction and a sum for actual cleaning expenses.

(2) No cleaning charges may be imposed for normal maintenance performed on a cyclical basis by the landlord as noted by the landlord at the time the tenant occupies the space unless the landlord is forced to perform this maintenance because of negligence of the tenant. Additionally, no cleaning charges ~~can~~ may be deducted until notice has been given to the tenant. The notice shall include the cleaning not accomplished by the tenant and the

1 additional and type or types of cleaning which need to be
2 done by the tenant to bring the premises back to its
3 condition at the time of its renting. After the delivery of
4 the notice, the tenant shall have 48 hours to complete
5 the required cleaning.

6 (3) No person may deduct or withhold from the security
7 deposit any amount for purposes other than those set forth
8 in this subsection ~~section~~."

9 Section 15. Section 70-26-202, MCA, is amended to
10 read:

11 "70-26-202. Rent -- when payable. When there is no
12 usage or contract to the contrary, rents ~~for real property~~
13 ~~under an arrangement not governed by chapter 24 of this~~
14 ~~title~~ are payable at the termination of the holding when if
15 it does not exceed 1 year. If the holding is by the day,
16 week, month, quarter, or year, rent is payable at the
17 termination of the respective periods, as it successively
18 becomes due."

19 Section 16. Section 70-26-203, MCA, is amended to
20 read:

21 "70-26-203. Failure of lessor to repair -- lessee's
22 remedies. ~~(1) If, within a reasonable time after notice to~~
23 ~~the lessor of dilapidations which he ought to repair, he~~
24 ~~neglects to do so, the lessee may repair the same himself,~~
25 ~~where and if the costs cost of such repairs do does not~~

1 require an expenditure greater than 1 month's rent of the
2 premises, ~~the lessee may perform such repairs himself~~ and
3 deduct the expenses of such repairs from the rent, or the
4 lessee may vacate the premises, in which case he shall be is
5 discharged from further payment of rent or performance of
6 other conditions.

7 ~~(2) Subsection (1) does not apply to real property~~
8 ~~leased under an arrangement governed by chapter 24 of this~~
9 ~~title."~~

10 Section 17. Section 70-26-204, MCA, is amended to
11 read:

12 "70-26-204. Renewal of lease by lessee's continued
13 possession. If a lessee of real property ~~leased under an~~
14 ~~arrangement not governed by chapter 24 of this title~~ remains
15 in possession thereof after the expiration of the hiring and
16 the lessor accepts a rent from him, the parties are presumed
17 to have renewed the hiring on the same terms and for the
18 same time, not exceeding 1 month when the rent is payable
19 monthly, or in any case 1 year."

20 Section 18. Section 70-26-205, MCA, is amended to
21 read:

22 "70-26-205. Notice required to terminate lease. ~~(1) A~~
23 ~~hiring of real property for a term not specified by the~~
24 ~~parties is deemed to be PRESUMED TO BE~~ renewed as stated in
25 70-26-204 at the end of the term implied by law unless one

1 of the parties gives notice to the other of his intention to
 2 terminate the same hiring at least as long before the
 3 expiration thereof as the term of the hiring itself, not
 4 exceeding 1 month.

5 ~~(2) Subsection (1) does not apply to real property~~
 6 ~~leased under an arrangement governed by chapter 24 of this~~
 7 ~~title."~~

8 Section 19. Section 70-26-206, MCA, is amended to
 9 read:

10 "70-26-206. Rights of tenant for years or at will. (1)
 11 A tenant for years or at will, unless he is a wrongdoer by
 12 holding over, may occupy the buildings, take the annual
 13 products of the soil, and work mines and quarries open at
 14 the commencement of his tenancy; and a tenant at will or for
 15 an indefinite term may cultivate and harvest the crops
 16 growing at the end of his tenancy.

17 (2) A tenant for years or at will has no other rights
 18 to the property than ~~such as are those~~ given to him by the
 19 agreement or instrument by which his tenancy is acquired or
 20 by subsection (1).

21 ~~(3) Subsection (2) does not apply to arrangements~~
 22 ~~governed by chapter 24 of this title."~~

23 Section 20. Section 70-27-109, MCA, is amended to
 24 read:

25 "70-27-109. General rules of practice applicable.

1 Except as otherwise provided in this chapter, ~~the~~ provisions
 2 of ~~[93-2381--to--93-8717]~~ Title 25 are applicable to and
 3 constitute the rules of practice mentioned in this chapter."

4 Section 21. Section 70-27-115, MCA, is amended to
 5 read:

6 "70-27-115. Defendant's appearance and answer. On or
 7 before the day fixed for his appearance, the defendant may
 8 appear and answer or demur ~~move to dismiss the complaint for~~
 9 ~~failure to state a claim."~~

10 Section 22. Section 70-28-102, MCA, is amended to
 11 read:

12 "70-28-102. General procedural provisions applicable.
 13 The provisions of ~~[93-3881--to--93-3828]~~ inclusive Title 25,
 14 chapter 3, parts 2 and 3, and Rules 4, 12(a), and 41(e),
 15 M.R.Civ.P., so far as ~~the same they~~ are not in conflict with
 16 this part, are hereby ~~made~~ applicable to the action herein
 17 provided for."

18 Section 23. Section 70-29-113, MCA, is amended to
 19 read:

20 "70-29-113. Death or incompetency of parties --
 21 proceedings not delayed. (1) If during the pendency of the
 22 action any of the parties ~~dies~~ or ~~become insane~~ ~~becomes~~
 23 ~~seriously mentally ill~~ or otherwise incompetent, the
 24 proceedings ~~shall~~ ~~may~~ not for that cause be delayed or
 25 suspended, but the attorney who has appeared for such ~~the~~

1 party may continue to represent such interest~~and in case~~,
 2 If any such party has not appeared by an attorney, the court
 3 shall appoint an attorney to represent the interest which
 4 was held by such ~~the~~ party until his heirs or legal
 5 representatives or successors in interest ~~shall~~ have
 6 appeared in the action.

7 (2) An attorney so appointed shall be allowed by the
 8 court a reasonable compensation for his services, which may
 9 be taxed as costs against the share or interest represented
 10 by such ~~the~~ attorney and may be adjudged a lien thereon, in
 11 the discretion of the court."

12 Section 24. Section 70-29-210, MCA, is amended to
 13 read:

14 "70-29-210. Consent of guardian to share of ward. The
 15 general guardian of an infant and the guardian entitled to
 16 the custody and management of the estate of an--insane a
 17 seriously mentally ill person or other person adjudged
 18 incapable of conducting his own affairs, who is interested
 19 in real estate held in joint tenancy or in common or in any
 20 other manner so as to authorize his being made a party to an
 21 action, may agree upon the share to be set off to such
 22 infant or other person entitled and may execute a release,
 23 in his behalf, to the owners of the shares of the parts to
 24 which they may be respectively entitled, upon an order of
 25 the court."

1 Section 25. Section 70-29-328, MCA, is amended to
 2 read:

3 "70-29-328. Incompetent's share of proceeds -- payment
 4 to guardian. The guardian who may be entitled to the custody
 5 and management of the estate of an--insane a seriously
 6 mentally ill person or other person adjudged incapable of
 7 conducting his own affairs, whose interest in real property
 8 has been sold, may receive in behalf of such person his
 9 share of the proceeds of such real property from the
 10 referees on executing with sufficient sureties an
 11 undertaking, approved by a judge of the court, that he will
 12 faithfully discharge the trust reposed in him and will
 13 render a true and just account to the person entitled or to
 14 his legal representative."

15 Section 26. Section 70-30-201, MCA, is amended to
 16 read:

17 "70-30-201. Applicable rules of practice. Except as
 18 otherwise provided in this chapter, the provisions of
 19 ~~[93-2301---to--93-8717]~~ Title 25 are applicable to and
 20 constitute the rules of practice in the proceedings
 21 mentioned in this chapter."

22 Section 27. Section 70-30-303, MCA, is amended to
 23 read:

24 "70-30-303. Final report and award of commissioners --
 25 procedure on failure to agree. (1) The report of

1 commissioners shall be made on such forms as are provided
 2 for their use by authority of the court. Such ~~the~~ report
 3 must be filed within 10 days after the completion of the
 4 hearing or within such additional time as ~~may be~~ allowed by
 5 the judge upon a clear showing of necessity therefor and
 6 must be filed with the clerk of court ~~and the~~. ~~The~~ clerk
 7 ~~must forthwith~~ shall notify the parties interested that such
 8 ~~the~~ report has been filed, with ~~which~~ notice, together with
 9 a true copy of ~~said the~~ report, must be served upon all the
 10 parties interested, in the same manner as a summons.

11 (2) A concurrence of two commissioners ~~shall be~~ is
 12 necessary to the making of a final report or award as to any
 13 parcel of property or interest therein. ~~in the event that if~~
 14 no two of the commissioners are able to agree as to the
 15 amount of any award, they shall report ~~such the~~ fact to the
 16 judge or court within the time ~~hereinbefore~~ ~~herein~~ specified
 17 and the court ~~must~~ shall forthwith impanel and appoint new
 18 commissioners as ~~hereinbefore~~ ~~herein~~ provided, which
 19 commissioners shall proceed as provided before herein to
 20 determine any award upon which the previous commissioners
 21 failed to agree.

22 (3) The report of ~~said the~~ commissioners shall also
 23 state the number of days or portions thereof consumed by the
 24 commissioners in performance of their duties as prescribed
 25 herein."

1 Section 28. Repealer. Sections 67-1001 through 67-1008
 2 (as enacted by sections 1 through 8, chapter 58, Laws 1923)
 3 and 34-106, R.C.M. 1947, are repealed.

-End-